

Section 8. LETTERS OF INTENT

1070. GENERAL.

The FAA is authorized to issue a letter of intent (LOI) for certain airport development projects when current obligating authority is not timely or adequate to meet a sponsor's desired timing for a project. Under this provision, a sponsor may notify the FAA of an intention to carry out a project without Federal funds and request that the FAA issue an LOI. The FAA evaluates the proposal and, if approved, issues a letter stating that reimbursement will be made according to a given schedule, as funds become available. A sponsor who has received an LOI may proceed with a project without waiting for an AIP grant. The Sponsor is assured that all allowable costs related to the approved project remain eligible for reimbursement.

1071. AVAILABILITY OF FUNDING. [combined from paragraphs 1074 and 1075]

At the beginning of each fiscal year, the FAA, in its administration of the AIP, sets aside the amount of Discretionary funds to cover the LOI payment schedules. The total of Discretionary funds in all LOIs subject to future obligation is limited to approximately 50 percent of the forecast Discretionary funds available for that purpose. The sources of Discretionary funds for existing and new LOIs are as follows:

- a. Large and Medium Hub Primary Airports—up to 50 percent of the Capacity / Safety / Security / Noise set aside.
- b. Small Hub Primary Airports—up to 50 percent of the “small hub” portion of the small airport fund.
- c. Nonhub Primary Airports—up to 50 percent of the nonhub portion of the small airport fund.
- d. Noncommercial Service Airports (Reliever Airports Only) – up to 50 percent of the noncommercial portion of the small airport fund.
- e. Up to 50 percent of the undesignated Discretionary (remaining Discretionary) will be available for LOIs. Primary airports of all sizes and relievers may compete for these limited funds.

APP will ensure that, in any given fiscal year, FAA does not approve LOI payment schedules that would exceed the 50 percent level in any category in future fiscal years. It is important to stress to airport sponsors applying for LOIs that their requested payment schedules will have a significant impact on the review process and any unreasonable payment schedules may be cause for rejection of the application without further consideration of other factors.

- f. An LOI may be issued with payments scheduled beyond the statutory expiration of the AIP, as authorized by the FY 1989 Department of Transportation and Related Agencies Appropriations Act (Public Law 100-457).

1072. ELIGIBILITY. [previously Para. 1071]

- a. **Airport.** LOIs may be issued to cover work only at primary and reliever airports.
- b. **Airfield Capacity Enhancement.** To be eligible for a letter of intent, the overall development objective of the Proposed Action must enhance airfield capacity in terms of increased aircraft operations, increased aircraft seating or cargo capacity, or reduced airfield operational delays. For purposes of determining what may be funded through an LOI, this would include any other AIP-eligible infrastructure required to support the Proposed Action. Infrastructure that is not logically and reasonably related to the Proposed Action may not be funded through an LOI. Any

other development to be funded under the requested LOI is also subject to the same review factors and conditions as the Proposed Action. An example of a directly related project includes an extension of a taxiway to match a runway extension. An example of a project that is not directly related would be the construction of a public roadway serving a terminal building, in an LOI for a new runway or extension.

For Large and Medium Hub airports, Section 47110(e)(2)(C) of Title 49 USC Section 47110(e) ("Letters of Intent") requires a determination that the project will enhance system-wide airport capacity significantly. For this requirement, the FAA typically considers the airport's role in the National Airspace System and the project's impacts on annual aircraft and passenger delays at current and future airport activity levels, as well as its capability to handle additional forecast aviation activity in terms of aircraft operations and total passengers.

It is FAA's policy that for Large or Medium hub airports, rehabilitation or reconstruction projects undertaken solely to extend the life of existing pavement does not satisfy this statutory requirement. The FAA may consider an LOI for reconstruction of an existing runway or taxiway at a Large or Medium hub airport only if the project will extend, strengthen or relocate the runway in such a manner as will allow the runway to:

- (1) Accommodate increased aircraft operations, increased aircraft seating or cargo capacity, or reduced airfield operational delays; or
- (2) Permit independent Instrument Flight Rules (IFR) arrivals or Simultaneous Offset Instrument Approach (SOIA) operations on a given pair of parallel runways for the first time; or
- (3) Permit an increase in the airport's overall capacity by eliminating intersecting runways, departure and/or approach procedures or missed approach procedures.

Therefore, projects at Large and Medium hub airports are not eligible for LOIs if they are principally to address safety or standards considerations, aircraft aprons, or reconstruction of infrastructure other than the capacity-enhancing parameters specifically outlined above.

These eligibility parameters are based on both the statutory limitations and the limited funds available for LOI commitments each year (see Paragraph 1071).

c. Payment of Interest and Calculation of Airport Rates and Charges. The payment of interest from bonds or other forms of indebtedness under an LOI is not recognized as an allowable cost. Accordingly, in submitting an LOI application, interest costs may not be included in project costs and will not be covered as part of an approved LOI. Additionally, the FAA will not recognize the cost of interest as an allowable expense in processing a request for payment of grant funds under a grant agreement executed pursuant to an LOI.

However, once allowable expenses have been incurred by the sponsor for approved LOI project capital costs, amounts paid to the sponsor by the FAA under the LOI constitute reimbursements. The FAA does not track or monitor airport sponsors' uses of payments under grant agreements after receipt of those payments by the sponsor. Therefore, the FAA has objection to the use of reimbursement payments upon receipt by the airport sponsor for any lawful airport purpose, including the payment of interest on airport obligations.

d. Additional Requirements. LOI requests are also subject to the following provisions:

- (1) A project under an LOI must satisfy all statutory and administrative programming requirements for an AIP project. Sponsors must proceed as though they had received Federal

funds and must fulfill all environmental, civil rights, bidding, procurement, and contracting requirements associated with an AIP grant, even though portions of the work may proceed in advance of receiving Federal funds.

(2) Except to the extent that the FAA agrees funds may go to other projects of equal or greater priority, the sponsor should be prepared to commit all Entitlements over the life of the LOI to the project. An exception may be made if Entitlement funds are already committed for other urgent needs. In such a case, the payment schedule in the LOI may have no funds or reduced Entitlements under the apportionment heading.

(3) Issuance of an LOI is considered a Federal action subject to the requirements of the National Environmental Policy Act (NEPA). Further, 49 USC 47110(e)(2)(B) specifies that the sponsor "will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter..." Consequently, all environmental actions as well as all other statutory and administrative grant requirements must be complete before issuance of an LOI.

(4) The FAA's position is to use the LOI provision to encourage the maximum number of capacity-enhancing projects. Consequently, the FAA seeks to ensure that sponsor resources are used to the maximum extent reasonable, and that Federal financial support should be the smallest amount necessary to allow the project to proceed.

(5) LOIs are an important innovative financing tool. As such, an airport seeking an LOI must submit a financial plan that demonstrates how the LOI will leverage increased financial commitment from non-Federal sources and/or will cause the project to be accelerated. Financially superior LOI requests will be those that seek a greater percentage of the AIP funds later in the financial plan, divide the Federal participation over a longer time frame, and seek realistic overall Federal participation. Airports seeking earlier and larger AIP allocations should be encouraged to consider competing for funds through annual Discretionary grants rather than LOIs. The FAA will not consider an LOI payment schedule that directly matches an airport's capital drawdown schedule. For further information regarding limitations on the magnitude of LOI awards and requested disbursement schedules, please see Para. 1074(a)(3) and (4), respectively.

(6) Costs incurred prior to the issuance of an LOI, except project formulation costs, will not be reimbursed. The cost of preparing Benefit/Cost Analyses (BCAs) can be reimbursed as a project formulation cost when and if the project is approved for an AIP grant. The preparation of the BCA may also be part of a master plan project if such master plan effort is timely to the planned LOI project.

(7) A Benefit/Cost Analysis (BCA) will involve a detailed review of future benefits and costs for each year of the project's expected life, prepared in accordance with the guidance issued on December 15, 1999. The guidance may be downloaded from the FAA Airports web site at http://www.faa.gov/airports_airtraffic/airports/aip/bc_analysis/.

(8) Any grant issued for the same work identified in an LOI will be considered part of the LOI rather than as a separate action. This does not preclude the issuance of a separate grant for distinct work outside the scope of the LOI. As a general rule, no additional grants for projects covered within an LOI will be considered once an LOI has been awarded. Extraordinary circumstances that may lead to an amendment include, but are not limited to, a change in project cost related to unforeseen Federal or state regulatory requirements, changes in project timing or scope, or changes in future obligating authority.

1073. APPLICATION PROCESS. [combined from paragraphs 1072 and 1077]

A principal goal in establishing the LOI procedures is that projects to be funded in this way be treated as much like conventionally funded grant projects as possible. In order to ensure that all statutory and administrative requirements associated with the normal grant process are satisfied, the FAA will evaluate sponsor CIP's and grant applications, and review proposed projects as is done for a normally funded AIP project. Grant applications and offers will follow as set forth in the LOI payment schedule, subject to the availability of funds. Actions should occur as outlined below:

a. Timetable. LOI applications are due on March 1, and will be considered for award at the end of the same fiscal year (i.e., approximately six months later). Applications received after March 1 will be considered for the following fiscal year. APP-500 may grant a request, if received in advance of the deadline, for a sponsor to submit a partial application, pending completion of environmental review, benefit-cost analysis or other requirements.

The initial grant under an LOI is ordinarily awarded during the following fiscal year, except in cases where disbursements may be contingent upon completion of key milestones (see Paragraph 1074(a)(4), "Requested LOI disbursement schedule").

b. Early FAA/Sponsor Coordination. Any airport sponsor interested in pursuing an LOI should contact their Airports District Office or Regional Office as early as possible, generally at least three months before the application deadline. The sponsor should be briefed early on the general features of LOI provisions and on actions that the sponsor should take to obtain an LOI. The FAA Airports District Office (ADO) (or Regional Office, in regions without ADOs) will be the primary contact for the sponsor regarding an LOI. It may be desirable to hold a joint meeting so that all parties understand the purpose and scope of the project, FAA authority and policy, and sponsor financial needs, schedules, and responsibilities. This joint meeting should include a discussion of the evaluation criteria outlined in Paragraph 1074(a), including the relationship between the FAA's Terminal Area Forecast (TAF) and the sponsor's forecast assumptions used in their planning, environmental processing, financial planning and BCA.

Paragraph 1074(d) ("Submission Requirements"), subsections (6), (7) and (9) address the requirements for Airport Layout Plan (ALP) approval, Federal environmental processing and the BCA, respectively. Sponsors should carefully consider the timetables for completion of each of these critical elements before deciding in which year to submit the LOI request.

Since all LOIs require a BCA, and given the length of time required to review the BCA, the review of the BCA should be started upon receipt of the BCA rather than waiting until the LOI application is complete.

Regions should notify APP-500 promptly when a sponsor expresses interest in obtaining a letter of intent. Preliminary information provided to APP-500 should include a general description of the project, the estimated cost, the proposed schedules for construction and reimbursement, and an indication of whether the project is a good candidate for an LOI.

All normal pre-application review and evaluation actions should be completed as if the project were being programmed for a grant. Similarly, the sponsor should be briefed on the importance of complying with all Federal procedures on bidding, civil rights, and contract award.

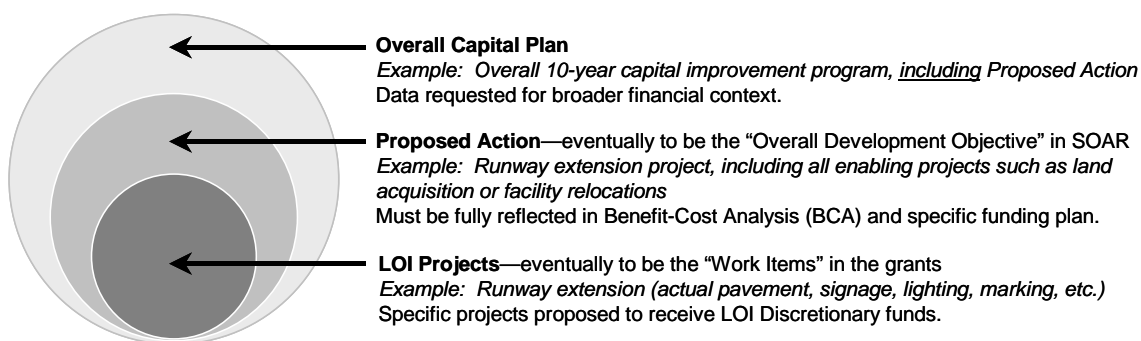
c. Key Definitions. Typically, the proposed action for which an LOI is requested is not the only capital project for a given airport. The FAA's financial analysis will focus principally on the projects for which the LOI is requested, but it is also beneficial to consider major funding requests in the context of the airport's broader financial environment. Therefore, it is important to clearly define three overlapping sets of capital project data:

(1) “Proposed Action”—the proposed primary project or program that is the subject of the LOI request. It may be a new or relocated runway, or a major airfield reconfiguration consisting of multiple related projects, with an Overall Development Objective (ODO). In this context the “Proposed Action” might include facility relocations that are necessary to achieve the overall objective and generate the benefits that will be calculated in the BCA. The full cost of the “Proposed Action” must be reflected in the BCA and the associated funding plan. If an LOI is awarded, the full scope and costs of the “Proposed Action” must be reflected in SOAR as a single ODO.

(2) “LOI Projects”—the individual project elements that are a portion of the proposed action that the LOI is specifically requested to help fund. These projects must have clearly established AIP eligibility, and must be scheduled for implementation in advance of the requested LOI disbursement schedule. If an LOI is awarded, then these elements must be reflected in SOAR as the “Work Items.”

(3) “Overall Capital Plans”—to the extent that the airport sponsor has other capital projects identified that are not directly related to the “Proposed Action,” these should be clearly identified and reflected in the overall financial plans. Overall Capital Plans are not limited to those for which Federal funding may be sought. Typically, identified projects other than the “Proposed Action” would be reflected in the “Base Case” as part of the BCA. However, this information is requested purely to provide broader context, and the FAA’s evaluation will be focused primarily on the Proposed Action. See Paragraph 1074(a)(6) for further information.

Figure 4. Relationship Between “Overall Capital Plan,” “Proposed Action” and “LOI Projects”



d. Submission Requirements. All requests for an LOI must include the following required information, and should generally be organized as set forth below. In addition, sponsors are strongly advised to review Paragraph 1074(a), “Evaluation Criteria,” Before preparing an LOI request. For LOI Discretionary requests in excess of \$100 million (“High-Profile Requests”), the FAA will require a higher level of supporting documentation and will apply a higher level of scrutiny. FAA may also retain the services of an independent consultant to assist in a more detailed review of the LOI request, BCA, and/or cost estimates, as noted:

(1) Executive Summary including an overview of the existing airport’s facilities and operating environment, along with an overview of the proposed capital project or program to be supported by the requested LOI;

(2) Description of the existing facilities, focusing on the capacity constraints of those facilities relative to existing or projected demand;

(3) Description of the sponsor's activity forecast—preferably an FAA approved forecast—including both summary and detailed information on enplanements and operations with details of fleet mix, peak hour airfield mix by class, and a clear discussion of how the forecasts were derived with their key assumptions. For Large and Medium-hub airports, include an explanation of the airport's role in the National Airspace System, as a basis for evaluating the system-wide capacity benefits of the project.

(4) Description of the Proposed Action, focusing on how it would provide additional capacity in terms of supporting larger aircraft, increased operations and/or reduced operating delays.

(5) Description of the capital cost estimates, delineating the level of planning or design data on which the estimates are based, the source of quantities and unit costs, and the levels of contingency assigned. In some circumstances, such as with complicated, high cost projects elements, sponsors should secure the services of an independent consultant to conduct a formal cost estimate review, including unbiased quantity calculations, estimates of unit costs and determination of appropriate contingency levels based on the level of design information available. Sponsors may then need to present a reconciled cost estimate along with an explanation of the review and reconciliation process.

(6) Status of (and schedule for) the Airport Layout Plan (ALP) approval. If the ALP has not been approved by March 1, then the schedule should clearly demonstrate that the FAA may be able to approve the ALP by September 30, including sufficient time for full airspace review and all required coordination.

(7) Status of (and schedule for) completion of the Federal environmental decision and all other required Federal and state permits. If an Environmental Impact Statement (EIS) is required, the schedule should demonstrate that the Final EIS will be published no later than August 1. If the schedule suggests a date later than August 1 for the Final EIS, the Sponsor should consider deferring the LOI request to the following year.

(8) Description of the financial plan, explaining the full range of funding sources, the status of each (in terms of approvals and/or implementation) and the role of the requested LOI funding. Using the Finance Template provided in Appendix 29 of Order 5100.38 (the "AIP Handbook"), the applicant must clearly outline all sources and amounts of financing for the proposed project as well as for all other anticipated capital projects during the life of the LOI request.

(9) If not submitted previously, a comprehensive presentation of the required Benefit/Cost Analysis (BCA), prepared in accordance with the current guidance available at <http://www.faa.gov/arp/financial/aip/bca.cfm>. This information should include all data necessary to explain the assumptions regarding existing and proposed facilities and operational parameters. APP-510 may approve a time extension for portions of the final BCA under extraordinary circumstances.

1074. EVALUATION CRITERIA AND DECISION PROCESS. [combined from paragraphs 1072, 1073 and 1074]

a. Evaluation Criteria. The FAA will consider the following factors in reviewing requests for LOIs. For LOI Discretionary funding requests for in excess of \$100 million ("High-Profile Requests"), the FAA is likely to apply a higher level of scrutiny:

(1) **Underlying project eligibility** and fulfillment of all statutory, legal and regulatory requirements.

(2) **Capacity benefits.** Particularly for Large and Medium hub airports, the FAA will consider the project's effect on the overall national air transportation system capacity (see

Paragraph 1072(b) ("Eligibility," "Airfield Capacity Enhancement"). For High-Profile Requests (as defined above), the FAA may require operational simulations of the airport and terminal airspace to validate sponsor projections. The FAA's Air Traffic Organization may be asked to validate the underlying assumptions, analytical process and conclusions.

(3) **Magnitude of requested LOI.** In developing their capital financial plans, sponsors of Large and Medium hub airports are advised to review historical LOI award levels for the type of project they are seeking to fund. This information is available online at http://www.faa.gov/airports_airtraffic/airports/aip/grant_histories/. Sponsors should recognize that as costs have increased over time, typical LOI award amounts have increased at a slower pace due to funding constraints and prior commitments, and the percentage of Federal participation has generally decreased. FAA may consider higher funding amounts in extraordinary cases where total costs exceed \$1 billion. In such cases, the Federal participation level will generally be lower as a percentage of total costs, and disbursement schedules are likely to be for longer time periods.

Small and Non-hub primary airports and reliever airports may not have the same strength or diversity of funding sources as Large and Medium hub airports. Therefore, the FAA has historically determined reasonable Federal investment percentages to be higher for such sponsors. Such sponsors are advised to review historical LOI award levels for comparable airports and projects. Sponsors seeking the highest levels of Federal participation may be required to provide additional documentation of forecast demand levels, sensitivity analyses, and/or more heavily backloaded disbursement schedules.

The FAA will also consider the Sponsor's requested rate of Federal participation relative to comparable projects, as well as contributions from non-Federal funding sources, airport revenue diversion issues, and grandfathered payments to other governmental offices.

All airport sponsors should discuss the magnitude of any potential LOI request with the appropriate ADO and Regional representatives prior to formal submission of the request.

(4) **Requested LOI disbursement schedule.** The FAA will not consider an annual disbursement schedule that matches the annual drawdown projections for the proposed projects. Sponsors are advised to review historical LOI disbursement schedules. This information is available online at http://www.faa.gov/airports_airtraffic/airports/aip/grant_histories/.

In cases where significant final design, land acquisition, permitting or other requirements must still be completed, the FAA may establish a disbursement schedule that defers the first year's disbursement until certain milestones have been achieved.

ADO and Regional representatives must also consider the impact of the proposed disbursement schedule on their projected Airport Capital Improvement Program (ACIP) funding levels. As with the magnitude of the LOI request, all airport sponsors should discuss the proposed disbursement schedule with the appropriate ADO and Regional representatives prior to formal submission of the request.

(5) **Completeness of Sponsor's financial plan.** The FAA will consider the degree to which all other funding sources have been approved and/or implemented. The FAA will also consider the relationship between the sponsor's annual drawdown projections, interim funding sources and the proposed LOI reimbursement schedule—i.e., the sponsor's demonstrated ability to support carrying costs prior to LOI reimbursement.

(6) **Feasibility of Sponsor's financial plan for the Proposed Action.** The FAA will not generally evaluate the impact of increased airport rates and charges on the sponsor's ability to

attract or retain airline service, which is driven by many factors including underlying market strength, the competitive environment, revenue potential and other airline operating expenses beyond airport rates and charges.

However, the FAA may consider analyses and conclusions prepared by other industry experts, including municipal bond rating agencies, bond insurers, institutional investors and the airlines themselves, particularly in cases where the airlines have already approved the issuance of bonds in support of the Proposed Action.

The FAA may consider current and projected Cost Per Enplanement (“CPE”) at the airport, generally in terms of projected increases resulting from the Proposed Action rather than as a mechanism for attempting to compare one airport to another. The FAA may also consider the proposed capital investment on a per-passenger or per-operation basis. .

The FAA may assess other sponsor commitments that may impact the sponsor’s ability to commit specific sources of funds, including other higher priority projects that may require use of Entitlement funds. However, the FAA’s evaluation will focus primarily on the Proposed Action, because the purpose of the LOI program is to enhance airfield capacity. Such projects are generally funded differently from terminal and other infrastructure projects, and may proceed on significantly different timetables. Moreover, the associated costs are generally recovered differently from airport tenants.

The FAA may retain the services of an independent consultant to assist in any part of these analyses, especially in (but not limited to) situations where the request for LOI Discretionary funding exceeds \$100 million.

(7) **Reasonableness of the forecasts.** The FAA will review the assumptions, methodology, and results of the activity forecasts used to support financial planning and analysis. Such forecasts should be consistent with those developed and used for planning and environmental analysis purposes. For Large, Medium and Small-hub airports, locally developed forecasts will generally be considered consistent with FAA’s Terminal Area Forecasts (TAF) if they are within 10 percent over the first five years and 15 percent over the first ten years.¹

The basic forecasting methodologies for planning, environmental and financial purposes should be generally consistent with one another. However, for purposes of financial analysis, sponsors are encouraged to consider using more conservative growth assumptions, to minimize the potential for overestimating future airport activity levels and capacity benefits, as well as other funding sources including PFCs and Entitlements.

While adoption of FAA forecasts (e.g., the Terminal Area Forecasts) may be acceptable, it is recommended that sponsors discuss any proposed forecast and its use with their ADO or Regional Office in advance. (See Para. 1073(b), “Early FAA/Sponsor Coordination.”)

(8) **Completeness and reasonableness of the capital cost estimates.** The FAA will evaluate the completeness and reasonableness of the capital cost estimates, generally by seeking opportunities to compare the proposed project with other recent, comparable projects. In some cases the FAA may also spot-check underlying unit costs, and/or conduct sensitivity analyses² to

¹ See “Revision to Guidance on Review and Approval of Aviation Forecasts,” dated December 23, 2004, available at http://www.faa.gov/airports/airtraffic/airports/planning_capacity/.

² The term “sensitivity analysis” refers to an analysis of the net impact of potential changes in key independent variables. For example, sensitivity analyses typically conducted on capital cost estimates may involve calculating the overall cost impact of an additional half-percentage point of annual cost

assess the impact of significant changes in the capital costs. The cost estimates must include all professional services, land acquisition, environmental mitigation and all hard and soft construction costs, as well as contingency and escalation. Project scope must include all necessary NAVAIDS, tower facilities, and associated security, lighting and communications systems, regardless of anticipated funding sources.

The FAA may retain the services of an independent consultant to assist in any part of these analyses, especially in (but not limited to) situations where the request for LOI Discretionary funding exceeds \$100 million.

(9) **Strength, accuracy and thoroughness of the benefit-cost analysis.** The BCA must be prepared in accordance with the FAA's guidance, and demonstrate that (a) the underlying assumptions are reasonable and correct, and (b) the project would be cost-beneficial over a reasonable range of probable outcomes.

(10) **Sponsor's ability to implement project in a timely manner.** The FAA may consider the sponsor's prior experience in the implementation of major AIP-funded projects and/or the administration of AIP grants.

(11) **Existing commitments, competing requests and anticipated requests.** The FAA is responsible for ensuring compliance with established statutory set-aside requirements. Therefore, the FAA must consider existing and anticipated funding requests as part of the LOI evaluation process in each fiscal year.

(12) **Special considerations for new or replacement airports.** In cases where an LOI is requested in support of a new or replacement airport, the FAA may require and consider additional information about any aspect of the proposed development, including phasing of the new airport, the facility's functional and operational position relative to other existing or proposed airport facilities, population and demographic patterns, air service (including passenger and cargo) and underlying economic activity.

b. Evaluation Process

The Airports District Office (ADO) and/or Regional Office will prepare an overview, assessment and preliminary recommendation for Headquarters consideration, within 30 days of receiving an LOI request unless an extension is requested of (and approved by) APP-510 in advance. This assessment should not generally duplicate information contained in the Sponsor's LOI request, but should clarify or correct any information that the Sponsor may not have presented clearly or accurately.

The assessment should identify any issues with the Sponsor's submission, and provide any relevant observations associated with the Evaluation Criteria outlined above. With respect to criterion #4 (requested LOI disbursement schedule), the ADO and/or Region should provide a preliminary recommendation regarding any modifications based on project schedule and cashflow requirements, factors affecting Entitlements or other considerations. With respect to criterion #11 (existing LOI commitments, competing requests and anticipated requests), the Region should provide any relevant input from the Regional perspective.

FAA will establish a national-level committee each year to review LOI requests to ensure that all statutory requirements have been met, and to advise the Associate Administrator for Airports

escalation—e.g., the difference between 3.0% versus 3.5%—or the effect of a one-year delay in the overall construction schedule.

(ARP-1) and the Director of the Office of Airport Planning and Programming (APP-1) on the selection of LOI proposals. The committee will be composed of representatives of the Associate Administrator for Airports (ARP). The committee is chaired by APP-500 and includes ARP representatives from APP-510, APP-520, and an Airports regional division manager (or designee) with no LOI candidate in the current year. The committee may also include representation by the Office of Aviation Policy and Plans (APO), the Air Traffic Organization and/or other FAA offices, as determined by the committee chair. The committee may recommend that APP-500 request additional information from the sponsor, and/or additional assessment from the ADO or Regional Office.

After ARP-1 selects the sponsors that will receive LOIs, APP-500 will complete the headquarters actions necessary to complete the approval process and initiate the OST/Congressional notification process. The Congressional notification will state the FAA's intention to grant funds, not to exceed the estimated total Federal share of allowable project costs, and any amounts that are approved for allocation in the current year. See Figure 5, following, for a diagram of the evaluation process.

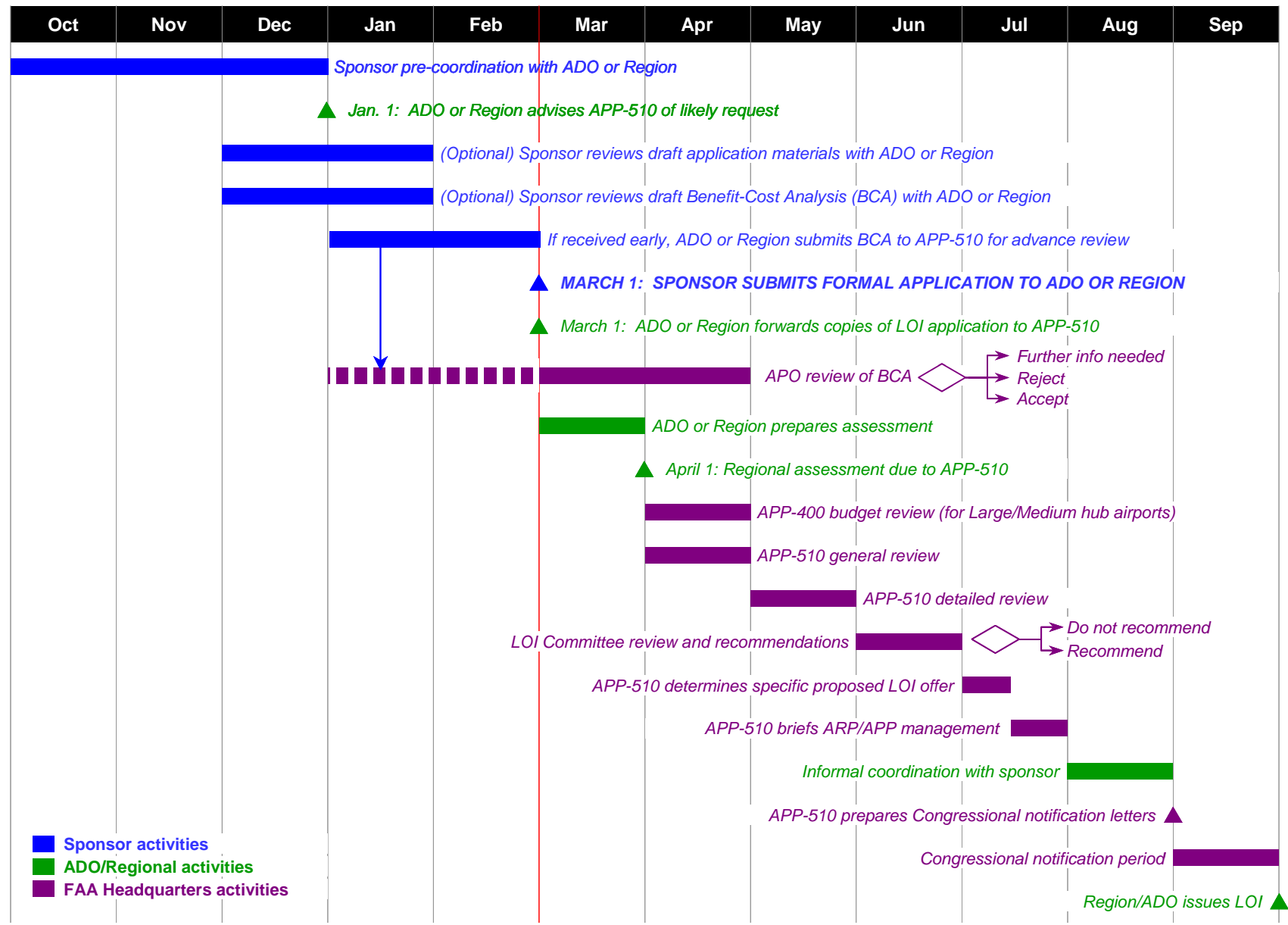
1075. ADMINISTRATION OF LETTERS OF INTENT. [combined from paragraphs 1073, 1076 and 1078]

FAA will issue the LOI to the sponsor when the Congressional notification process is complete. The same official who normally signs a grant offer for the FAA will be the official who signs the LOI. The LOI should include the following:

- a. LOI number and airport name (the number should be based on the region's three letter code, the fiscal year of issuance, and a sequential number, e.g., AGL-88-02, the second LOI issued by AGL in FY 1988);
- b. A brief, but complete, project description;
- c. The maximum amount of Federal funds which will be made available for the project;
- d. A schedule of reimbursements by fiscal year and type of funds, (apportionment and/or Discretionary);
- e. A statement that the sponsor must comply with all statutory and administrative requirements;
- f. A statement that the LOI is not considered to be an obligation of the United States, shall not be deemed an administrative commitment for funding, but shall be regarded as an intention to obligate from future budget authority as such funds become available; and
- g. A statement that the LOI, with sufficient justification, may be amended to adjust the maximum Federal obligation, the payment schedule, or both. When Entitlement funds (including cargo and primary) are more than the amount scheduled in a year, one or more of the following may occur, at the FAA's discretion in consultation with the Sponsor:
 - (1) the Discretionary funding in the same year is reduced by a corresponding amount; or
 - (2) the Sponsor applies only the amount listed in the schedule. The remaining Entitlement funds may be used for other high priority projects during that fiscal year or carried over to following fiscal years; or
 - (3) a subsequent year's Entitlement funds committed to the LOI is reduced and may instead be applied toward other projects.

Conversely, if Entitlement funds (including cargo and primary) are less than the amount scheduled in a year, the sponsor must apply the total amount awarded for that particular year toward that year's schedule, and commit an amount equal to the shortfall towards a subsequent year.

Figure 5
Letter of Intent (LOI) Process and General Timetable



Discretionary funds will not be increased to compensate for lower or nonexistent Entitlement funds. Therefore, the accurate projection of Entitlement funds is crucial to both the Sponsor and the FAA.

All actions that would normally follow the notification of allocation, except those related to grant offer, acceptance and payments, must be completed as if a grant had been issued. If a sponsor proceeds without satisfying all of the “statutory and administrative requirements” associated with an actual grant, the commitment to reimburse the sponsor under the LOI may be voided. Sponsors should fully understand that failure to comply with all Federal requirements could lead to a requirement to repay disbursed amounts and jeopardize later reimbursements.

When the authority to obligate funds for a project under an LOI is received, the sponsor should be notified to submit a grant application and all additional documentation needed at that time. The SF-424 must provide the LOI project description. Additional documentation may include periodic construction progress reports, inspection reports, or other evidence of satisfactory progress. The grant application may be for costs already incurred or for prospective costs. If the application includes costs not yet incurred however, the FAA should ensure that the costs are imminent, rather than anticipated at some unspecified date in the future.

There will be an ongoing need to maintain up-to-date records of outstanding commitments under the LOI provisions. In addition, projects constructed under LOIs are more likely to be complex and to require longer completion times than those initiated with current year allocations and grants. Consequently, there may be a need to periodically review the amount of funds originally agreed to in a letter of intent and adjust the estimate for funding needed in the out years. In any case, APP-500 must approve any changes in the amounts or status of such future funding agreements. Such changes are not normally necessary unless extraordinary circumstances lead to substantial changes in project costs.

[In final version, will include standard LOI agreement and letter as attachments.]

1076. AMENDMENTS TO LETTERS OF INTENT.

Because these projects will be administered in the same way as conventionally funded projects, there will be ongoing FAA field involvement as each project phase is completed, as subsequent phases come to bid, and as successive grants are issued under the LOI. Under extraordinary circumstances, an LOI may be amended in future years to adjust the total maximum Federal obligation, the schedule of payments, or both. Extraordinary circumstances that may lead to an amendment include, but are not limited to, a change in project cost related to unforeseen Federal or state regulatory requirements, changes in project timing or scope, or changes in future obligating authority.

In cases where significant changes in project scope or costs are apparent, the Region or ADO administering the project may be authorized to issue an amended LOI, after APP-500 approval, revising the project description, increasing or decreasing the Government’s maximum obligation, or revising the payment schedule. See Appendix 24 for a sample LOI amendment.

In cases where an amendment would exceed either \$10 million or 20 percent of the original LOI Discretionary funding, APP-500 may require updated information from the sponsor in order to review, update and revalidate the original BCA before approving the amendment. If such an amendment is approved, APP-500 will initiate an OST/Congressional notification process as if a new LOI were being awarded.

Substantial revision or abandonment of a project initiated under an LOI is not anticipated. In such an event, however, consult APP-500 to determine the appropriate course of action. Although

the limitation on grant amendments (currently 15 percent) does not apply to LOIs, caution should be exercised in considering project changes that would substantially increase the cost.

1077. ADDITIONAL LETTER OF INTENT.

Should a sponsor seek to obtain another LOI for projects not covered by the first LOI, the sponsor's new proposal should be evaluated in the same way as the original.

1078. - 1089. RESERVED